

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES HEMPHILL,

Defendant.

No. CR00-0029-LRR

ORDER

The matter before the court is the defendant's pro se Motion to Transfer Case to Northern District of Illinois (Docket No. 22). The defendant filed such motion on December 26, 2006.

With respect to the instant motion, the defendant filed it while represented by counsel. This is impermissible. The defendant does not have a constitutional right to hybrid representation, that is, the defendant must choose either to proceed pro se or to utilize the full assistance of counsel who would present his defense. *See United States v. Swinney*, 970 F.2d 494, 498 (8th Cir. 1992); *see also United States v. Lewis*, 738 F.2d 916, 924 (8th Cir. 1984) (stating “[a] defendant in a criminal case does not have a constitutional right both to represent himself and to be represented by counsel” (citing *United States v. Olson*, 576 F.2d 1267, 1270 (8th Cir. 1978))); *United States v. Williams*, 534 F.2d 119, 123 (8th Cir. 1976) (stating “a criminal defendant has a right to represent himself or, alternatively, to be represented by counsel” (citing *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975))); *cf. United States v. Blum*, 65 F.3d 1436, 1443 n.2 (8th Cir. 1995) (noting it is Eighth Circuit policy to refuse to consider pro se filings when a party is represented by counsel (citing *Hoggard v. Purkett*, 29 F.3d 469,

472 (8th Cir. 1994))). Accordingly, the defendant's pro se Motion to Transfer Case to Northern District of Illinois (Docket No. 22) is denied without prejudice. If counsel deems it appropriate to have the court address the issues raised in the instant motion, counsel is directed to resubmit it.

IT IS SO ORDERED.

DATED this 5th day of January, 2007.



LINDA R. READE
CHIEF JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA